

AN ACT
D.C. ACT 24-732

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 10, 2023

To amend Title 18 of the District of Columbia Municipal Regulations to authorize animal control officers to operate emergency lights and sirens when responding to an animal-related emergency; to amend Chapter 106 of the Acts of the Legislative Assembly to provide for the provision of a bond to care for seized animals during the pendency of criminal or other proceedings, to prohibit the possession of an implement of animal fighting, and to establish new criminal offenses prohibiting sexual contact between persons and animals, creating or distributing an obscene image of an animal, and cat declawing; to amend Chapter 3 of Title 25-J of the District of Columbia Municipal Regulations to prohibit a pet store operator from selling mammals, amphibians, arachnids, birds, or reptiles in a pet store unless the animal was obtained from the Animal Care and Control Agency, a society for the prevention of cruelty to animals, a humane society shelter, or rescue group; and to amend section 16-910 of the District of Columbia Official Code to allow judges to consider the best interests of a pet and award joint custody in a divorce case.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Animal Care and Control Omnibus Amendment Act of 2022”.

Sec. 2. Title 18 of the District of Columbia Municipal Regulations is amended as follows:
(a) Section 712.1 (18 DCMR § 712.1) is amended to read as follows:

“712.1 (a) The Director may register as an authorized emergency vehicle the following:

“(1) Vehicles of a fire or police department;

“(2) An ambulance;

“(3) An official government-owned vehicle used for the emergency care or preservation of life, health, and property; and

“(4) An official vehicle owned by the Animal Care and Control Agency, established pursuant to section 3 of the Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code § 8-1802), used for responding to an animal-related emergency, as that term is defined in section 9901.1 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 9901.1).

“(b) An animal control officer may not operate a vehicle authorized as an emergency vehicle until the officer has received comprehensive training in the areas of liability,

driving skills and decision-making, and emergency vehicle operation. The Animal Care and Control Agency shall be liable for its negligence and the negligence of its employees or agents in the operation of emergency vehicles.”.

(b) Section 9901 (18 DCMR § 9901) is amended by adding a new definition to read as follows:

“Animal-related emergency – an urgent situation, as deemed by an officer of the Metropolitan Police Department or the Animal Care and Control Agency, such as when an animal may pose a danger to humans or other animals or where a dead or injured animal is obstructing a public space or roadway.”.

Sec. 3. Chapter 106 of the Acts of the Legislative Assembly, adopted August 23, 1871 (D.C. Official Code § 22-1001 *et seq.*), is amended as follows:

(a) Section 4 (D.C. Official Code § 22-1004) is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) A person found violating the laws in relation to cruelty to animals may be arrested and held without a warrant, in the manner provided by section 5 of An Act to incorporate an Association for the Prevention of Cruelty to Animals in the District of Columbia, approved June 21, 1870 (16 Stat. 158; D.C. Official Code § 44-1505), and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested and shall properly care and provide for such animals until the owner thereof shall take charge of the same.”.

(2) Subsection (b)(1) is amended to read as follows:

“(1) A humane officer of the Washington Humane Society may take possession of any animal to protect it from neglect or cruelty. The person taking possession of the animal or animals shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested and shall properly care and provide for the animals until the owner shall take charge of the animals.”.

(3) Subsection (c) is amended to read as follows:

“(c)(1) The owner of an animal seized pursuant to subsection (a) or (b) of this section may request a hearing regarding the possession of the animal within the 20-day period provided by subsection (b)(2) of this section. If the hearing officer finds, by a preponderance of the evidence, that the owner did abandon, neglect, or cruelly treat the animal, the animal shall become the property of the Washington Humane Society as provided by subsection (b)(2) of this section, except as provided in paragraph (3) of this subsection.

“(2) If the hearing officer does not find that the owner abandoned, neglected, or cruelly treated the animal, the hearing officer shall order the return of the animal to the owner, except as provided in paragraph (3) of this subsection. The hearing officer may order the owner to reimburse the Washington Humane Society for the reasonable costs to care for, feed, and treat the animal during the period in which the animal was in the possession of the Washington Humane Society.

“(3) During the pendency of a criminal investigation, prosecution, appeal, or other action arising from an act related to the seizure of the animal, the hearing officer shall order the animal to the possession of the Washington Humane Society and shall order the owner to post a bond sufficient to cover the reasonable costs to care for, feed, and treat the animal for 30 days. At the expiration of the initial bond, or subsequent bond, if the criminal investigation, prosecution, appeal, or other action remains pending, the owner shall post an additional bond sufficient to cover the reasonable costs to care for, feed, and treat the animal for an additional 30 days. If an owner fails to post a bond within 5 days after an order or obligation pursuant to this paragraph, the animal shall become the property of the Washington Humane Society as provided by subsection (b)(2) of this section.

“(4) The Washington Humane Society may draw on any bond required to be posted pursuant to this section for the actual reasonable costs of providing care, feeding, and treatment of the seized animal. The reasonable costs incurred in excess of such bond shall be a lien on the animal and shall be discharged by the owner before the animal may be released to the owner.

“(5)(A) Upon the resolution of the criminal investigation, prosecution, appeal, or other action resulting in the animal being placed in the possession of the Washington Humane Society, and if there is no judicial ruling on the disposition of the animal, the hearing officer shall conduct a hearing on the disposition of the animal.

(B) If the hearing officer finds, by a preponderance of the evidence, that the owner did abandon, neglect, or cruelly treat the animal, the animal shall become the property of the Washington Humane Society as provided by subsection (b)(2) of this section.

(C) If the hearing officer does not find that the owner abandoned, neglected, or cruelly treated the animal, the hearing officer shall order the return of the animal to the owner, provided that the animal is not subject to a lien as provided in paragraph (4) of this subsection.

(D) If the resolution of the criminal investigation, prosecution, appeal, or other action results in the forfeiture of the animal, the hearing officer need not conduct a hearing, and the animal shall become the property of the Washington Humane Society as provided by subsection (b)(2) of this section.

“(6)(A) The Mayor shall establish by rulemaking a notice and hearing process for the owner of the animal to contest the seizure, detention, and terms of release and treatment of the animal, the allegation of cruelty, abandonment, or neglect and the imposition of the lien and costs associated for caring and providing for the animal.

“(B) Within 90 days after the effective date of the Animal Care and Control Omnibus Amendment Act of 2022, passed on 2nd reading on December 20, 2022 (Enrolled version of Bill 24-560), the proposed rules shall be submitted to the Council for a 45-day review period of review, excluding weekends, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed rules, by resolution, within the 45-day review period, the rules shall be deemed approved.”.

(4) A new subsection (d) is added to read as follows:

“(d)(1) An owner may seek judicial review before the Superior Court of the District of Columbia within 5 days after:

“(A) Receipt of notice of a final decision issued by the President of the Washington Humane Society, or the President’s designee under 24 DCMR § 1509.1; or

“(B) Receipt of notice that the owner has failed to comply with the conditions of return pursuant to 24 DCMR § 1511 issued by the President of the Washington Humane Society, or the President’s designee.

“(2) This subsection shall apply to all cases pending before the court as of the effective date of the Animal Care and Control Omnibus Amendment Act of 2022, passed on 2nd reading on December 20, 2022 (Enrolled version of Bill 24-560).”.

(b) A new section 6b is added to read as follows:

“Sec. 6b. Possession of an implement of animal fighting.

“(a) *Offense.* A person commits the offense of possession of an implement of animal fighting when that person purposefully possesses, with the intent to use in furtherance of engaging in animal fighting, as described in section 6a, an implement of animal fighting.

“(b)(1) *Penalties.* A person convicted of possession of an implement of animal fighting shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 10 days, or both.

“(2)(A) Each implement of animal fighting possessed in violation of this section shall constitute a separate offense.

“(B) Notwithstanding subparagraph (A) of this paragraph, no person shall be consecutively sentenced to more than 30 days for violations of this section that occurred within a single 90-day period.

“(c) For the purposes of this section, the term “implement of animal fighting” means the following objects when used in preparation for, or in furtherance of, animal fighting:

“(1) A breaking stick designed for insertion behind the molars of an animal to break the animal’s grip on another animal or object;

“(2) A slatmill, carpetmill or another form of improvised treadmill;

“(3) A springpole that has a biting surface attached to a stretchable device, suspended at a height sufficient to prevent an animal from reaching the biting surface while touching the ground;

“(4) A fighting pit or other confined area designed to contain an animal fight; or

“(5) A breeding stand or rape stand used to immobilize female animals for breeding purposes.”.

(c) New sections 11a, 11b, 11c, and 11d are added to read as follows:

“Sec. 11a. Prohibiting sexual contact between a person and animal.

“(a) *First degree*. A person commits first degree sexual contact between a person and animal when the person knowingly causes another person to engage in sexual contact with an animal:

“(1) By means of debt bondage or making an explicit or implicit coercive threat;
or

“(2) When, in fact, the other person is:

“(A) Under 18 years of age; or

“(B) A vulnerable adult.

“(b) *Second degree*. A person commits second degree sexual contact between a person and animal when the person knowingly engages in a sexual contact with an animal.

“(c) *Defenses*. It is an affirmative defense to liability under this section if the conduct constituting an offense is one of the following acts that is otherwise lawful:

“(1) The practice of veterinary medicine, performed by a licensed veterinarian or a certified veterinary technician under the guidance of a licensed veterinarian;

“(2) Artificial insemination of animals for the purpose of procreation;

“(3) Animal husbandry practices, including raising, breeding or assisting with the birthing process of animals; or

“(4) Any other practice that provides care for animals or conformation judging.

“(d) *Penalties*. A person convicted of:

“(1) First degree sexual contact between a person and animal shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 2 years, or both.

“(2) Second degree sexual contact between a person and animal shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 180 days, or both.

“(e) *Definitions*. For the purposes of this section, the term:

“(1) “Coercive threat” means a communication that, unless the recipient of the communication complies, a person will:

“(A) Engage in conduct that, in fact, constitutes a criminal offense;

“(B) Take or withhold action as a public official, or cause a public official to take or withhold action;

“(C) Accuse a person of a crime;

“(D) Expose a secret, publicize an asserted fact, or distribute a photograph, video or audio recording, regardless of the truth or authenticity of the secret, fact, or item, that tends to subject another person to, or perpetuate:

“(i) Hatred, contempt, ridicule, or other significant injury to
personal; or

“(ii) Significant injury to credit or business reputation;

“(E) Notify a federal, state, or local government agency or official of, or publicize, another person’s immigration or citizenship status;

“(F) Restrict a person’s access to either a controlled substance that the person owns or a prescription medication that the person owns; or

“(G) Cause any harm that is sufficiently serious, under all the circumstances, to compel a reasonable person of the same background and in the same circumstances as the complainant to comply.

“(2) “Debt bondage” means the status or condition of a person who provides services or commercial sex acts for a real or alleged debt, where:

“(A) The value of the services or commercial sex acts, as reasonably assessed, is not applied toward the liquidation of the debt;

“(B) The length and nature of the services or commercial sex acts are not respectively limited and defined; or

“(C) The amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

“(3) “Sexual contact” means an act between a person and an animal for the purpose of sexual arousal, sexual gratification, abuse, or financial gain that involves:

“(A) Contact between the sex organs or anus of one and the mouth, anus or sex organs of the other;

“(B) Touching or fondling by a person of the sex organs or anus of an animal, either directly or through clothing, without a bona fide veterinary or animal husbandry purpose;

“(C) A transfer or transmission of semen by the person upon any part of the animal; or

“(D) The insertion, however slight, of a part of a person’s body or an object into the vaginal or anal opening of an animal or the insertion of a part of the animal’s body into the vaginal or anal opening of the person.

“(4) “Veterinary purpose” means the practice of veterinary medicine, performed by a licensed veterinarian or a certified veterinary, intended to address the medical condition of an animal, such as an existing or recurring illness, infection, disease, injury, or abnormal condition that compromises the animal’s health. The term “veterinary purpose” does not include cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the animal.

“(5) “Vulnerable adult” means a person who is 18 years of age or older and has one or more physical or mental limitations that substantially impairs the person’s ability to independently provide for their daily needs or safeguard their person, property, or legal interests.

“Sec. 11b. Creating or distributing an obscene image of an animal.

“(a) *First degree.* A person commits first degree creating or distributing an obscene image of an animal when the person knowingly creates a photo, audio recording, video recording, or audiovisual recording that depicts a real person engaging in actual sexual contact with a real animal.

“(b) *Second degree.* A person commits second degree creating or distributing an obscene image of an animal when the person:

“(1) Knowingly distributes a photo, audio recording, video recording, or audiovisual recording; and

“(2) Is reckless as to the fact that the photo, audio recording, video recording, or audiovisual recording depict sexual contact with an animal.

“(c) *Defenses.* It is an affirmative defense to liability under this section if:

“(1) The distribution is made in the public interest, including the reporting of unlawful conduct, the lawful and common practices of law enforcement, or legal proceedings; or

“(2) The photo, audio recording, video recording, or audiovisual recording that depicts the following acts that are otherwise lawful:

“(A) The practice of veterinary medicine, performed by a licensed veterinarian or a certified veterinary technician under the guidance of a licensed veterinarian;

“(B) Artificial insemination of animals for the purpose of procreation;

“(C) Animal husbandry practices, including raising, breeding, or assisting with the birthing process of animals; or

“(D) Any other practice that provides care for animals or conformation judging.

“(d) *Penalties.* A person convicted of:

“(1) First degree creating or distributing an obscene image of an animal shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 180 days, or both.

“(2) Second degree creating or distributing an obscene image of an animal shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 90 days, or both.”.

“(e) *Definitions.* For the purposes of this section, the term:

“(1) “Sexual contact” means an act between a person and an animal for the purpose of sexual arousal, sexual gratification, abuse, or financial gain that involves:

“(A) Contact between the sex organs or anus of one and the mouth, anus or sex organs of the other;

“(B) Touching or fondling by a person of the sex organs or anus of an animal, either directly or through clothing, without a bona fide veterinary or animal husbandry purpose;

“(C) A transfer or transmission of semen by the person upon any part of the animal; or

“(D) The insertion, however slight, of a part of a person's body or an object into the vaginal or anal opening of an animal or the insertion of a part of the animal's body into the vaginal or anal opening of the person.

“(2) “Veterinary purpose” means the necessity to address the medical condition of the animal, such as an existing or recurring illness, infection, disease, injury, or abnormal condition in the claw that compromises the animal's health. The term “veterinary purpose” does not include cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the animal.

“Sec. 11c. Unlawful cat declawing.

“(a) *Offense*. A person commits unlawful cat declawing if that person knowingly performs, or causes to be performed, a partial or complete onychectomy, phalangectomy, or tendonectomy procedure (“declawing”), by any means, on a cat, except when necessary for a veterinary purpose.

“(b) *Penalties*. A person convicted of unlawful cat declawing shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 90 days, or both.

“(c) *Definitions*. For the purposes of this section, the term “veterinary purpose” means the practice of veterinary medicine, performed by a licensed veterinarian or a certified veterinary, intended to address the medical condition of the animal, such as an existing or recurring illness, infection, disease, injury, or abnormal condition in the claw that compromises the animal's health. The term “veterinary purpose” does not include cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the animal.

“Sec. 11d. Additional penalties.

“Upon conviction for a violation of section 1, 2, 11a, 11b, or 11c:

“(1) The person shall, in addition to any other penalties provided by law, forfeit the animal whose treatment was the basis of the conviction to the custody of the Washington Humane Society; and

“(2) A judge may order that the person shall not:

“(A) Work in any capacity that requires the person to be in contact with an animal, including a commercial boarding or training establishment, shelter, animal control facility, pet shop, grooming facility, commercial breeder service, veterinary hospital, animal clinic, animal welfare society, or other nonprofit organization incorporated for the purpose of providing welfare, protection, and humane treatment of animals; or

“(B) Harbor, own, possess or exercise control over an animal, reside in a household where any animals are present, or engage in an occupation, whether paid or unpaid, or participate in a volunteer position at any establishment where animals are present.”.

Sec. 4. Chapter 3 of Title 25-J of the District of Columbia Municipal Regulations (25-J DCMR 300 *et seq.*), is amended by adding a new section 330 to read as follows:

“330. Restrictions relating to mammals, amphibians, arachnids, birds, and reptiles.

“330.1 A pet store operator shall not sell live mammals, amphibians, arachnids, birds, or reptiles in a pet store unless the animal was obtained from the Animal Care and Control Agency,

society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group that is in a cooperative agreement with at least one private or public shelter.

"330.2 Each pet store shall maintain records sufficient to document the source of each mammal, amphibian, arachnid, bird, and reptile that the pet store sells or for which it provided space for at least one year. Additionally, each pet store shall post, in a conspicuous location on the cage or enclosure of each animal, a sign listing the name of the Animal Care and Control Agency, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group from which each mammal, amphibian, arachnid, bird, and reptile was obtained.

"330.3 Each animal offered for sale in violation of this section shall constitute a separate violation."

Sec. 5. Section 16-910 of the District of Columbia Official Code is amended to read as follows:

"16-910. Assignment and equitable distribution of property.

"(a) Upon entry of a final decree of legal separation, annulment, or divorce, or upon the termination of a domestic partnership pursuant to § 32-702(d) or § 16-904(e) and the filing of a petition for relief available under this section, in the absence of a valid antenuptial or postnuptial agreement resolving all issues related to the property of the parties, the court shall:

"(1) Assign to each party the party's sole and separate property acquired prior to the marriage or domestic partnership, and the party's sole and separate property acquired during the marriage or domestic partnership by gift, bequest, devise, or descent, and any increase thereof, or property acquired in exchange therefore;

"(2) Value and distribute all other property and debt accumulated during the marriage or domestic partnership that has not been addressed in a valid antenuptial or postnuptial agreement or a decree of legal separation, regardless of whether title is held individually or by the parties in a form of joint tenancy or tenancy by the entireties, in a manner that is equitable, just, and reasonable, after considering all relevant factors, including:

"(A) The duration of the marriage or domestic partnership;

"(B) The age, health, occupation, amount, and sources of income, vocational skills, employability, assets, debts, and needs of each of the parties;

"(C) Provisions for the custody of minor children;

"(D) Whether the distribution is in lieu of or in addition to alimony;

"(E) Each party's obligation from a prior marriage, a prior domestic partnership, or for other children;

"(F) The opportunity of each party for future acquisition of assets and income;

"(G) Each party's contribution as a homemaker or otherwise to the family unit;

"(H) Each party's contribution to the education of the other party, which enhanced the other party's earning ability;

“(I) Each party’s increase or decrease in income as a result of the marriage, the domestic partnership, or duties of homemaking and child care;

“(J) Each party’s contribution to the acquisition, preservation, appreciation, dissipation, or depreciation in value of the assets that are subject to distribution, the taxability of these assets, and whether the asset was acquired or the debt incurred after separation;

“(K) The effects of taxation on the value of the assets subject to distribution; and

“(L) The circumstances that contributed to the estrangement of the parties; and

“(3)(A) At the request of a party to proceedings for dissolution of marriage or for legal separation of the parties, enter an order, prior to the final determination of ownership of a pet animal, to require a party to care for the pet animal. The existence of an order providing for the care of a pet animal during the course of proceedings for dissolution of marriage or for legal separation of the parties shall not have any impact on the court’s final determination of ownership of the pet animal.

“(B) The court, at the request of a party to proceedings for dissolution of marriage or for legal separation of the parties, may assign sole or joint ownership of a pet animal, taking into consideration the care and best interest of the pet animal.

“(b) For the purposes of this section, the term “pet animal” means any animal that is community property and kept as a household pet.

“(c) The Court is not required to value a pension or annuity if it enters an order distributing future periodic payments.”.

Sec. 6. Fiscal impact statement.


The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
January 10, 2023



COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, DC, 20004

Docket No. **B24-0560**☒ ITEM ON CONSENT CALENDAR☒ ACTION

First Reading, CC

☒ VOTE DATE

December 6, 2022

☐ VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT


Gray

☒ ROLL CALL VOTE – Result

Approved

Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec
Chairman Mendelson	X					Henderson	X					R. White	X				
Allen	X					Lewis George	X					Silverman	X				
Bonds	X					McDuffie	X					T. White	X				
Cheh	X					Nadeau	X										
Gray				X		Pinto	X										
X - Indicate Vote						AB – Absent						NV - Present, Not Voting					
												Rec - Recused					

CERTIFICATION RECORD


 Secretary to the Council


 Date
Docket No. **B24-0560**☒ ITEM ON CONSENT CALENDAR☒ ACTION

Final Reading, CC

☒ VOTE DATE

December 20, 2022

☐ VOICE VOTE

RECORDED VOTE ON REQUEST


ABSENT

☒ ROLL CALL VOTE – Result

Approved

Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec
Chairman Mendelson	X					Henderson	X					R. White	X				
Allen	X					Lewis George	X					Silverman	X				
Bonds	X					McDuffie	X					T. White	X				
Cheh	X					Nadeau	X										
Gray	X					Pinto	X										
X - Indicate Vote						AB – Absent						NV - Present, Not Voting					
												Rec - Recused					

CERTIFICATION RECORD


 Secretary to the Council


 Date